

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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ORETHA BEH, RUBY CASON, BRIANA
KINCANNON and KIMBERLY BALKUM,
individually and on behalf of all persons
similarly situated,

Plaintiffs,

-versus-

No. 19-cv-1417-LJV

COMMUNITY CARE COMPANIONS INC.,
ALEXANDER J. CARO, MARK GATIEN,
INTERIM HEALTHCARE OF ROCHESTER,
INC., and JAMES WATSON,

Defendants,
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**DECLARATION OF
BRIANA KINCANNON**

BRIANA KINCANNON under penalty of perjury that the following is true and correct, states:

1. I am a Personal Care Assistant ("PCA") employed by Community Care Companions, Inc. ("CCC"). I was hired in or around May 2018 by CCC as a PCA.
2. As a PCA, my duties include cleaning and bathing clients, doing their laundry and preparing clients' meals, among other duties.
3. For approximately a year and a half, I have regularly attended meetings with other PCAs and Home Health Aides ("HHAs") (collectively, "home care workers") in the Rochester and Buffalo areas. This has included home care workers who are employed by CCC. Home care workers at these meetings regularly talk about their working conditions and their experiences in doing home care work. I have also had one-on-one conversations with CCC employees at these meetings, where we talked about working conditions and the subjects I describe in this

Declaration. In addition, I have met other home care workers employed by CCC at the company's office, and we have occasionally discussed working conditions and the subjects I describe in this Declaration.

4. I regularly go to the CCC office, which is currently located at 69 Delaware Ave, Suite 1200, Buffalo, NY 14202. I go to the CCC office to turn in time sheets every week, to ensure I got paid for that week's work. The time sheets record the hours I have worked at CCC's clients' residences in the previous week. I also pick up my paychecks at the office every week. Other CCC home care workers also have to go to the office to drop off time sheets and to pick up paychecks.

5. In 2018, I and other CCC workers were required to perform in-service trainings at home. We received training materials several times in the year, and we were required to complete the training at home on our own time. The training materials included a certain amount of reading material that we were required to read, as well as a written question section that we were required to complete. After completing both the reading and writing portions of the training materials, we were required to mail the written section back to the employer's office, or drop it off at the company's office in person. It took me approximately two hours or more to complete both the reading and written portions of each training. This policy lasted until the start of 2019, when we were required to come to the CCC office for a training. When we were required to complete the in-service trainings at home, we were never compensated for the time it took us to complete the trainings.

6. CCC regularly communicates with me using my cell phone, through both phone calls and text messages. This is true of other CCC home care workers as well.

7. In performing my home care duties, I regularly work in the residences of CCC's clients by myself. This is true of other CCC home care workers as well.

8. I have performed home care duties at the residences of CCC clients within the geographic area of Buffalo, NY and its surrounding areas, including Amherst and Williamsville, NY.

9. Between three and four workdays every week, I am required to travel from one client's residence to another client's residence. On these days, each trip between clients takes at least 90 minutes.

10. I spend between four and six hours traveling per week as a result of traveling between these clients' residences. I travel by bus between clients. I have to buy a monthly bus pass to do this, which costs \$72.43 per month. I do not receive any compensation for any of this travel time nor am I compensated for my out-of-pocket expenses relating to this travel.

11. I know from talking to many other CCC home care workers that many of them have to travel between clients' residences multiple times a week and that they are not compensated for this travel time.

12. I am required to wear sets of scrubs to perform home care work for CCC. I own approximately 20 pairs of scrubs at a time. I buy approximately ten pairs of scrubs every year. Each pair of scrubs costs approximately \$20. I am required to keep the scrubs clean. I clean the scrubs at least once every week. I clean the scrubs separately from my other clothes because of the bodily fluids that often wind up on the scrubs. I have to go to a laundromat to clean and dry the scrubs. It costs me approximately \$8 to use a washer and dryer, plus the cost of laundry soap and bleach. It takes me approximately 3 hours to travel to a laundromat, wash and dry the

clothes, and go home. I occasionally have to wait to use a washing machine or dryer, in which case it takes approximately 4 hours total to get the scrubs cleaned and dried.

13. I have never been compensated by CCC for the cost of the uniforms, any of the expenses related to cleaning them, or for the time it takes me to clean and dry them. Other CCC home care workers I have spoken to also have never been compensated for these expenses or the time spent on cleaning and drying their uniforms.

14. In most workweeks, I am scheduled to work approximately 35 hours, but this does not include time spent on travel between clients' residences or my time spent on cleaning and drying my scrubs. I am not compensated for this regular "unscheduled" work. When my time spent on uncompensated work is added to my scheduled hours, I usually work more than forty (40) hours per week. Because I am not compensated for my time traveling between clients' residences and my time spent on cleaning and drying scrubs, I am not compensated at one and one-half times my regular rate of pay for my hours worked each week above forty (40) hours. This overtime compensation problem was made worse in the weeks before 2019 when I was required to participate in training sessions because I was not compensated for the time spent on those sessions.

15. From talking to many other CCC home care workers, I know that they are subject to the same overtime compensation problem: most are forced to spend several hours per week on travel between clients' residences and on cleaning and drying their scrubs. As a consequence, many regularly work more than forty (40) hours in a week but, because they are not compensated for that time, they are not paid at one and one-half times their regular rates of pay for each hour worked each week in excess of forty (40) hours. As with me, this problem was aggravated in the

weeks when each of the other home care workers was required to participate in training sessions, because the other CCC home care workers were also not compensated for this work before 2019.

I declare under penalty of perjury that the foregoing is true and correct.

Executed 12/19/19

Briana Kincannon

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